

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

ROBERT J. LABONTE,

Plaintiff,

v.

UNITED STATES,

Defendant.

No. 18-1784C

(Judge Hertling)

**DEFENDANT’S UNOPPOSED MOTION FOR AN ENLARGEMENT
OF TIME TO RESPOND TO CROSS-MOTION
FOR JUDGMENT ON THE ADMINISTRATIVE RECORD**

Defendant, the United States, respectfully requests that the Court grant a four-day enlargement of time, from November 8, 2019, to and including November 12, 2019, to file our response to plaintiff’s cross-motion for judgment on the administrative record. ECF No. 52. This is our first request for an enlargement of time for this purpose. On November 7, 2019, plaintiff’s counsel’s office advised us that plaintiff consents to the proposed enlargement of time.

This is a military pay case. Plaintiff filed his motion for judgment on the administrative record on October 25, 2019. Pursuant to Rule 7(a)(1) of the Court’s rules, we normally would have 28 days to respond to plaintiff’s cross-motion. Oral argument, however, has been scheduled for December 3, 2019, and the parties are completing briefing on an accelerated schedule.

We have worked diligently on our response to plaintiff’s cross-motion, have completed our draft brief, and have submitted the draft for internal and agency review. Late in the afternoon of November 7, 2019, we learned that the Army will require additional time to review our draft brief. As a result, we are seeking the proposed enlargement of time, until November 12, 2019, to respond to plaintiff’s cross-motion, so that we can complete the review process,

make any changes required as a result, and prepare the brief for filing. We note that Monday, November 11, 2019 is a Federal holiday. To provide plaintiff with sufficient time to file his reply to our response brief, we respectfully request that the Court modify the briefing schedule as follows, which would provide plaintiff with the same number of additional days as we are requesting:

- Defendant will file a response to the plaintiff's cross-motion by November 12, 2019 (currently due November 8, 2019).
- Plaintiff may file a reply by November 19, 2019 (currently due November 15, 2019).

Because oral argument is not being held until December 3, 2019, and we are proposing only modest changes to the briefing schedule, we are not seeking to modify the oral argument date.

For these reasons, we respectfully request that the Court grant this motion for an enlargement of time.

Respectfully Submitted,

Respectfully submitted,

JOSEPH H. HUNT
Assistant Attorney General

ROBERT E. KIRSCHMAN, JR.
Director

s/ Douglas K. Mickle
DOUGLAS K. MICKLE
Assistant Director

OF COUNSEL:

MAJOR MICHAEL TOWNSEND, JR.
United States Army
Military Personnel Branch
U.S. Army Legal Services Agency

s/ Richard P. Schroeder
RICHARD P. SCHROEDER
Trial Attorney
Commercial Litigation Branch
Civil Division
U.S. Department of Justice
PO Box 480
Ben Franklin Station
Washington, D.C. 20044
Tele: (202) 305-7788
Fax: (202) 305-7643
Email: Richard.Schroeder@usdoj.gov

Dated: November 8, 2019

Attorneys for Defendant